

ECONOMIC INFRASTRUCTURE FUND GRANT PROGRAM GRANT AGREEMENT

PART I

Signatory Page

Grantee: **City of Jonesboro**

Grant Control: **#EIF 200904**

Grant Amount: **\$125,000**

Activity Type: **ED-Wastewater**

GRANTOR

Arkansas Economic Development Commission
900 W. Capitol, Ste. 400
Little Rock, AR 72201
(501) 682-1211

GRANTEE

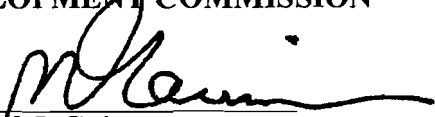
Name: **City of Jonesboro**
Address: **P.O. Box 1845
Jonesboro, AR 72403**
County: **Craighead**
Phone: **870-932-1052**

1. This Grant Agreement is entered into by the Arkansas Economic Development Commission, Grantor, and the **City of Jonesboro**, Grantee, for the purpose of providing funds to Grantee to undertake public works projects and/or job training efforts which support private sector job creation opportunities, alleviate conditions which constitute a threat to public health and well-being, or partially defray the costs of providing access to publicly owned industrial parks; and for grants and/or loans for the expansion of the aircraft and aerospace industry; and for grants and/or loans for port and waterway economic development projects; and for grants and/or loans to support technology based economic development projects. The Grantee agrees to initiate and complete an economic development project in accordance with the terms of this Grant Agreement.
2. The Grantee further warrants it will conduct and administer the grant in accordance with this Agreement and all applicable State laws and regulations.

**ARKANSAS ECONOMIC
DEVELOPMENT COMMISSION**

CITY OF JONESBORO

BY:


Michael J. Gaines
Deputy Director

Date

11-12-13

PART II - GRANT AGREEMENT GENERAL TERMS AND CONDITIONS

In consideration of the general terms and conditions hereinafter contained, the Grantor and the Grantee agree as follows:

1. **COMPENSATION AND METHOD OF PAYMENT.** The Grantor will utilize a grant request for payment procedure and will authorize the Grantee to draw up to **\$125,000** against a Grant Award through the State Treasury, consistent with all fiscal requirements stipulated herein. The Grantee may request and receive authorized grant funds by submitting appropriate forms and documentation, subject to approval by the Grantor, for payments of allowable expenses incurred by the Grantee while undertaking approved project activities in accordance with this Grant Agreement. These expenses must be identified by line item categories, which correspond to the line item categories on this Grant Agreement's Scope of Work-Budget. Requisitions will be mailed to the Grantor, and the Grantor will review and approve the requisitions before issuing Payment to the Grantee.

It is expressly understood that Grantor will honor requests for payment and disburse funds only to the extent that funds have been released to Grantor therefore, consistent with the requirements of the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law and any other applicable fiscal control laws and regulations promulgated by the Department of Finance and Administration.
2. **LEGAL AUTHORITY.** By signing the Grant Agreement Document's Signatory Sheet, the Grantee certifies that it possesses legal authority to accept grant funds and to execute the project described in this Grant Agreement. This act of signing will also certify that the Grantee will comply with all parts of this Agreement.
3. **WAIVERS.** No conditions or provisions of this Grant Agreement may be waived unless approved by the Grantor, in writing.
4. **ASSIGNABILITY.** The Grantee will not assign any interest in this Grant Agreement and will not transfer any interest in the same (whether by assignment or novation).
5. **SPECIAL CONDITIONS.** The Grantee will comply with all special conditions and attachments incorporated herein to this grant award. Compliance approval and clearance of special conditions will be given by the Grantor in writing after receipt and review of evidence of compliance from the Grantee. Official notification of a special condition and the Grantor's approval and/or clearance of special conditions must be retained by the Grantee in its files.
6. **FINANCIAL MANAGEMENT AND ACCOUNTING.** The Grantee will establish and maintain a financial management and accounting system, which conforms to generally accepted accounting principles and complies with all applicable State requirements.
7. **ALLOWABLE COSTS.** All costs necessary to carry out the eligible activities in the project must be consistent with and not exceed the limitations imposed by special conditions, scope of work and budget.
8. **AMENDMENTS AND MODIFICATIONS.** The Grantor will consider project amendments if they are necessitated by actions beyond the control of a Grantee. The Grantee may request or the Grantor may require an amendment or modification of the Grant Agreement. However, such amendment or modification will not take effect until approved, in writing, by the Grantor. The Grantee must sign and return the amendment to the Department of Economic Development within three days. The Grantee must request prior approval for all amendments or modifications. Amendments will not be approved

which would materially alter the circumstances under which the grant was originally funded.

9. **RECORD KEEPING.** The Grantee agrees to keep such records as the Grantor may require. All such records, and other records pertinent to the grant and work undertaken as part of the project, will be retained by the Grantee for a period of three years after the final audit of the program.
10. **ACCESS TO RECORDS.** The Grantor and duly authorized officials of the State will have full access and the right to examine any pertinent documents, papers, records, and books of the Grantee and of persons or organizations with which the Grantee may contract, which involve transactions related to this Grant Agreement. The Grantee's contract with other persons or organizations must specifically provide for the Grantor's access to documents as provided herein.
11. **REPORTS.** The Grantee, at such times and in such forms as the Grantor may require, will furnish the Grantor with such periodic reports as it may request pertaining to the activities undertaken pursuant to this Grant Agreement, the costs and obligations incurred in connection therewith, and any other matters covered by this Grant Agreement.
12. **OBLIGATIONS REGARDING THIRD PARTY RELATIONSHIPS.** The Grantee will remain fully obligated under the provisions of the Grant Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the project described herein. Any subcontractor who is not the Grantee will comply with all lawful requirements of the Grantee necessary to ensure that the project is carried out in accordance with the provisions of this Grant Agreement. Failure to comply will result in sanction upon Grantee, Administrator, Engineer/Architect or Sub Contractor. This sanction will result in the Department of Economic Development not working with said persons, for a period of not less than one year or more than five years and/or a suspension of existing funding.

The Grantee shall secure all such services in accordance with applicable State law and the provisions of this Grant Agreement, and shall notify the Grantor, in writing, of the method utilized to secure services, the name and address of the service provider(s), the scope of work anticipated and the terms of compensation.

13. **CONFLICT OF INTEREST.** No officer or employee of the Grantor, no member, officer, or employee of the Grantee or its designees or agents, no member of the governing body of the jurisdiction in which the project is undertaken or located and no other official of such locality or localities who exercises any functions or responsibilities with respect to the project during his tenure, will have any personal or pecuniary gain or interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this agreement. The Grantee will incorporate, or cause to incorporate, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purpose of this provision. The Grantor reserves the right to waive certain provisions of this clause in the event of a situation once justified as unavoidable by the Grantee, and approved by the Grantor which necessitates such a waiver.
14. **POLITICAL ACTIVITY.** No portion of the funds provided hereunder will be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.
15. **NOTICES.** The Grantee will comply with all public notices or notices to individuals required by applicable State laws.
16. **PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION.** The assistance provided under this Grant Agreement will not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Grant Agreement.

17. **TERMINATION BY MUTUAL AGREEMENT.** This Grant Agreement may be terminated, in whole or in part, prior to the completion of project activities when the Grantor determines that continuation is not feasible or would not produce beneficial results commensurate with the further expenditure of funds. The Grantee will not incur new obligations for the terminated portion after the effective date, and will cancel as many outstanding obligations as possible. The Grantor will make funds available to the Grantee to pay for allowable expenses incurred before the effective date of termination.
18. **TERMINATION FOR CAUSE.** If the Grantee fails to comply with the terms of the Grant Agreement, or fails to use the grant for only those purposes set forth herein, the Grantor may:
- (a) Suspend Grant Payments - After notice to the Grantee, suspend the grant and withhold any further payment or prohibit the Grantee from incurring additional obligations of grant funds, pending corrective action by the Grantee or a decision to terminate by the Grantor.
 - (b) Terminate in toto - Terminate the grant in whole, or in part at any time before the final grant payment is made.

The Grantor will promptly notify the Grantee in writing of its determination to terminate, the reason for such termination, and the effective date of the termination.

Payments made to the Grantee or recoveries by the Grantor will be in accordance with the legal rights and liabilities of the parties.

19. **RECOVERY OF FUNDS.** In the event of a default or violation of the terms of the Grant Agreement by the Grantee, the Grantor may institute actions to recover all or part of the proper funds paid to the Grantee.
20. **DISPUTES.** Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of by provision of the Grant Agreement, will be decided by the Grantor which will reduce its decision to writing and mail or otherwise furnish a copy thereof to the Grantee. The decision of the Grantor will be final and conclusive. This does not preclude the consideration of questions of law in connection with decisions provided for in the preceding paragraph; provided that nothing in this Grant Agreement will be construed as making final the decision of any administrative official, representative, or board on a question of law.
21. **INDEMNIFICATION.** The Grantee will defend, protect, and save harmless the Grantor from and against all claims, suits, and actions arising from any act or omission of the Grantee or any employee or agents of either in the performance of this Grant Agreement. However, this clause shall not be construed to waive A.C.A. § 21-9-301 (1991 supp.).
22. **SEVERABILITY.** If any provision under this Grant Agreement or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect other provisions of the Grant Agreement, which can be given effect without the invalid provision.
23. **PERFORMANCE.** The Grantor's failure to insist upon the strict performance of any provision of this contract or to exercise any right based upon breach thereof or the acceptance of any performance during such breach, will not constitute a waiver of any rights under this Grant Agreement.
24. **ENFORCEMENT.** If the Grantor determines that a Grantee's performance fails to meet the terms and conditions of its Grant Agreement, several courses of action may be pursued in order to resolve the problem. The Grantor may take any of the following actions, severally or in combination:

- (a) Request additional information from the Grantee to verify the nature of inadequate performance;
 - (b) Conduct a site visit to examine pertinent records and recommend remedial cause of action;
 - (c) Issue a letter of warning, advising the Grantee of the deficiency, recommendations for corrections, date by which performance must be corrected and notice that more serious sanctions may be imposed if the situation continues or is repeated;
 - (d) Suspend funding of questioned activities until remedies are affected;
 - (e) Establish sanctions upon Grantee, Administrator, Engineer/Architect or Sub Contractor. This sanction will be for a period of not less than one year but not more than five years. Require reimbursement of funds improperly spent; or
 - (f) Refer the matter to the Attorney General of Arkansas with a recommendation that a civil action be instituted.
25. **AUDIT.** The Grantee will be responsible for the conduct of a financial and compliance audit within a reasonable period after completion of project activities. Such audit must be performed by a certified public accountant whose services are secured through procedures consistent with state law. The Grantor reserves the right to recover any unspent or questioned balance of grant funds, if any, from the Grantee after final audit.
26. **CLOSE-OUT.** The Grantor will advise the Grantee to initiate close-out procedures when the Grantor determines, in consultation with the Grantee, that there are no impediments to close-out and that the following criteria have been met or soon will be met:
- (a) All costs to be paid with grant funds have been incurred with the exception of any unsettled third party claims against the Grantee. Costs are incurred when goods and services are received and/or contract work is performed;
 - (b) The last required progress report has been submitted. The Grantee's failure to submit or update will not preclude the Grantor from effecting closeout if it is deemed to be in the State's interest. Any excess grant amount which may be in the Grantee's possession will be returned in the event of the Grantee's failure to furnish or update the report; and
 - (c) Other responsibilities of the Grantee under this Grant Agreement and any close-out agreement, and applicable laws and regulations appear to have been carried out satisfactorily or there is no further State interest in keeping the grant open for the purpose of securing performance.
27. The Grantee agrees, as a condition of receiving grant assistance, to abide by and adhere to any policy directives, rules, regulations or other requirements which may be issued from time to time by the Grantor, and which in the opinion of the Grantor are necessary to efficient or legal execution of the project.
28. The Grantee agrees to see that all work is performed and completed in a manner consistent with timelines established at the Grants inception. Failure to meet these timelines without acceptable justification may result in sanction and or de-obligation of funding to Grantee and/or Sub Contractors.

***PART III SCOPE OF WORK, SPECIAL CONDITIONS,
BUDGET, AND PROJECT SCHEDULE***

SECTION A - SCOPE OF WORK

Grantee: **City of Jonesboro**

Amendment # N/A

Control #: **EIF 200904**

Amendment Date N/A

The project described more fully herein consists of a grant to the City of Jonesboro (Grantee) to support the expansion of Architectural Concepts (the Company) in the City of Jonesboro. The grant is contingent upon the Company or another company owned or controlled by George Stem creating a minimum of 15 net, new full-time positions averaging \$14.00 per hour (New Position Requirement) within three years of signing the Grant Reimbursement Agreement (New Position Creation Period). Net new positions will exclude any salary paid to anyone with more than a 25% ownership in any Company.

Construction

Up \$125,000 of Economic Infrastructure Funds (EIF) may be used to extend sewer lines across the four-lane Highway 63 (future Interstate 555).

To receive reimbursement for eligible expenditures, the Grantee will be required to submit invoices and proof of payment, e.g., cancelled checks, to the Grantee, to be attached by the Grantee to a signed Request for Payment (RFP) form, to be supplied by and submitted to the Grantor.

Grant Reimbursement Conditions

If, by the end of the New Position Creation Period, the Grantee has not met the New Position Requirement, the Company will reimburse the Grantor \$8,333 for each position less than the number of new positions required under the New Position Requirement. In no case will the Company be required to repay more money under this than was advanced by AEDC through the EIF. Any amount owed will be immediately due and payable. Quarterly job creation reports will be required for three years or until the New Position Requirement is met.

SECTION B - SPECIAL CONDITIONS

Grantee: City of Jonesboro

Control #: EIF 200904

1. The Grantee shall ensure that all Requests for Payment towards the payment of eligible sewer line construction activities are accompanied by invoices that have been approved by the Grantor and the Grantee.
2. The Grantor and Grantee must receive, from the Company, job creation information throughout the life of the project. Job creation information is to include, at a minimum:
 - 1) Initial Employment Summary Form (Form 1);
 - 2) Semi-Annual Employment Summary Form (Form 2).

These employment reports will continue to be submitted quarterly for up to three years to reflect that the Company has met all employment requirements.

SECTION C - BUDGET

Grantee: City of Jonesboro

Amendment #: N/A

Grant Control: #EIF 200904

Category:

Housing

Economic Development

Community Facility

Planning

Activity: Wastewater

Source of Funds

Cost Classification	AEDC EIF	EDA	Total
Construction	\$125,000	\$135,000	\$260,000
Totals	\$125,000	\$135,000	\$260,000

GRANT REIMBURSEMENT AGREEMENT

THIS GRANT REIMBURSEMENT AGREEMENT (herein called the "Agreement") is made and entered into as of the ____ day of _____, 2013 by and between the **City of Jonesboro, Arkansas** (herein called the "City,"), and **Architectural Concepts**, an Arkansas company authorized to do business in the State of Arkansas (herein called the "Company.")

WITNESSETH:

WHEREAS, the Arkansas Economic Development Commission (herein called the "Commission") is authorized to make grant funds available to qualified applicants under the Economic Infrastructure Fund (EIF) program, with funds provided by State of Arkansas;

WHEREAS, the granting of funds from the Commission to the Company will permit the creation of new employment opportunities for citizens of the State of Arkansas; and

WHEREAS, certain sewer line construction activities will be completed that will benefit the Company located in City of Jonesboro, Arkansas;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the parties hereby covenant and agree as follows:

1. **GRANT.** Conditioned upon receipt of the grant funds by the City from the Commission, under a grant agreement dated _____, 2013, with funding awarded from the EIF program (herein called "Grant Agreement"), in the amount of \$125,000, the City agrees to use the sum as set out in the Grant Agreement, and this Agreement. A copy of the Grant Agreement is attached hereto as Exhibit "A" and is made a part hereof as set forth herein word for word. The Company acknowledges that the funds for the Grant are provided in accordance with the conditions of the Grant Agreement and shall submit to the Commission any reports, audits, documentation or other information as required herein according to this Agreement. In the event of any conflict with the terms and conditions of the Grant Agreement and the terms and conditions hereof, the terms and conditions of this Grant Reimbursement Agreement shall control.

2. **Purpose.** The Grant will be utilized only for those purposes specifically identified herein and within the Grant Agreement.

3. **Employment Opportunities.** The ultimate purpose of this Agreement and the Grant Agreement is to create employment opportunities for Arkansas residents. Accordingly, the Company agrees that it or any other Company owned or controlled by George Stem intends to create at least 15 net, new full-time positions averaging \$14.00 an hour (New Position Requirement) within three years of signing the Grant Reimbursement Agreement (New Position Creation Period). Net, net full-time positions will exclude any salary paid to anyone with more than a 25% ownership in any Company which is creating the new positions.

The Company acknowledges that the New Position Requirement is a condition precedent and a condition subsequent to the Company's benefit from the Grant.

4. **Disbursement of the Grant.** The Grant shall be disbursed to the City, with which to reimburse pay eligible expenses.

5. **Grant Reimbursement.** If, by the end of the New Position Creation Period, the Grantee has not met the New Position Requirement, the Company will reimburse the Grantor \$8,333 for each position less than the number of new positions required under the New Position Requirement. In no case will the Company be required to repay more money under this than was advanced by AEDC through the EIF. Any amount owed will be immediately due and payable. Quarterly job creation reports will be required for three years or until the New Position Requirement is met.

6. **Representations and Warranties of the Company.** The Company represents and warrants as follows:

(a) The Company is authorized to do business in the State of Arkansas, and has full power and authority to deliver this Agreement and every other instrument or document required to be delivered herein.

(b) The making and performance of this Agreement and each and every other document required to be delivered hereunder are within the Company's powers, have been duly authorized by all necessary corporate action, have received all necessary approvals, and do not contravene any law, regulation or decree or any contractual restriction (other than those which shall be waived or discharged at the time of making of the Grant) are binding on the Company.

(c) This Agreement and each and every other document required to be delivered hereunder, when duly executed and delivered, will be the legal and binding obligations of the Company enforceable in accordance with their respective terms.

(d) To the best of the Company's knowledge, there are no pending or threatened actions or proceedings before any court or administrative agency which may materially adversely affect the financial condition or operations of the Company.

7. **Conditions Precedent.** The obligation of the Commission to make the Grant is subject to the conditions that the Commission shall have received the following:

(a) This Agreement and all documents or instruments reasonably required in connection with the Grant.

(b) Certificate of Good Standing of the Company from the Arkansas Secretary of State.

(c) Certified copies of any resolutions evidencing authorization for the undertakings contemplated hereby, including the authorization to execute this Agreement and designating the person or persons with authority to execute same.

(d) Certified copies of all documents evidencing necessary action and approvals, if any, with respect to this Agreement and all other documents required in connection herewith (or a certificate that no such documents are required.)

8. **Events of Default.** If any of the following events (herein called "Events of Default") shall

occur and be continuing after the passage of a 30-day notice period ("Cure Period"), then this Agreement shall be in default per number 5. of this Agreement, and at the option of the Commission, the remaining Reimbursement Amount shall be subject to acceleration and enforcement as permitted by law, to wit:

- (a) The Company shall default in its compliance with the New Position Creation Requirement and Existing Employment Requirement per number 3. of this agreement; or
- (b) Any representation or warranty made in connection with the execution and delivery of this Agreement or any other document executed in connection herewith or in any certificate furnished pursuant hereto or thereto shall prove to be, at any time, incorrect in any material respect; or
- (c) The Company shall default in the performance of any other term, covenant or agreement contained in this Agreement; or
- (d) The Company shall be or become insolvent or bankrupt or have ceased or cease paying its debts as they mature or makes an assignment of or for the benefit of creditors, or a trustee or receiver or liquidator shall be appointed for the Company or for all or a substantial part of its property, or bankruptcy, reorganization, arrangement, insolvency, or similar proceedings shall be instituted by or against the Company under the law of any jurisdiction (provided, however, that in the event an involuntary bankruptcy action is commenced against the Company, then the Company shall have 90 days to secure the dismissal of such action).

Upon the occurrence of an Event of Default and after the Cure Period, the Remaining Reimbursement Amount shall become immediately due and payable and the Commission shall be entitled to collect from the Company all amounts which remain unpaid or unreimbursed.

9. **Notice.** All communications and notices provided for hereunder shall be in writing and mailed or delivered to the parties hereto at their business addresses set forth below or, as to each party, at such other address as shall be designated by such party in a written notice to the other parties.

If to the Company:

Architectural Concepts
6009 Dalton Farmer Dr.
Jonesboro, AR 72404
Attn: George Stem, CEO

If to the City:

City of Jonesboro
P.O. Box 1845
Jonesboro, AR 72403
Attention: Mayor

In the event this Agreement is assigned to the Commission, notice to the Commission shall be effective if sent to the following address:

Arkansas Economic Development Commission
900 W. Capitol, Ste. 400
Little Rock, AR 72201
Attention: Bryan Scoggins, Director of Business Finance

10. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Company and the Commission, and their respective heirs, personal representatives, successors and assigns, except that the Company may not assign or transfer its rights hereunder without the prior written consent of the Commission.

11. **Governing Law.** This Agreement shall be deemed to contract under the laws of the State of Arkansas and for all purposes shall be governed by and construed in accordance with the laws of said State or the laws of the United States of America, as shall be applicable.

12. **Binding Effect.** This Agreement shall remain in full force and effect until the Remaining Reimbursement Amount has been paid in full.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

CITY OF JONESBORO, ARKANSAS

ARCHITECTURAL CONCEPTS

By: _____


George Stem, Chief Executive Officer

ASSIGNMENT

FOR VALUE RECEIVED, the City of Jonesboro, Arkansas (the "City") does hereby assign, transfer and set over unto the **Arkansas Economic Development Commission**, a commission of the State of Arkansas (the "Commission"), without recourse, all of its right, title, and interest in and to the following:

1. Grant Reimbursement Agreement in the aggregate sum of \$125,000, by and between the City and **Architectural Concepts**, dated the ___ day of _____, 2013.

The undersigned consent, agree to, and acknowledge notice of the within Assignment to the Commission by the City and agree to render performance of their obligations under the assigned documents to the Commission as Assignee.

IN WITNESS WHEREOF, we have hereunto set our hands this ___ day of _____, 2013.

CITY OF JONESBORO, ARKANSAS

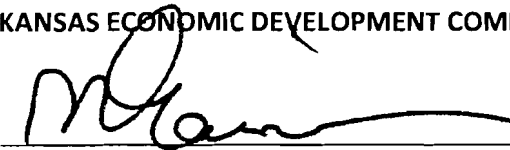
ARCHITECTURAL CONCEPTS

By: _____


George Stem, Chief Executive Officer

ARKANSAS ECONOMIC DEVELOPMENT COMMISSION

By: _____


Michael J. Gaines, Deputy Director